HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT PETITION NO. 16077 OF 2006

BETWEEN

Mirza Vajahath Ali Khan

.....

Petitioner

And

The Inspector of Police,
Malkajgiri Police Station,
Malkajgiri & another

.....Respondents

::O R D E R ::

Counsel for the Petitioner : Shri E.V. Bhagirath Rao

Counsel for the Respondents : Government Pleader for Home

Dated: 23.08.2006

Per G.S. SINGHVI, CJ

In this petition, the petitioner has prayed for issue of a direction to the respondents to complete investigation of Crime

No.281 of 2006 dated 28.06.2006 registered at Malkajgiri Police Station in the matter of alleged damage to Moala Ali Kaman (Arch) at Koh-e-Moala Ali.

In the affidavit filed by him, the petitioner has described himself as great-grandson of late Nawab Mirza Shamshuddin Ali Khan @ Abban Sab and averred that late Nawab Mirza Shamshuddin Ali Khan constructed five Kamans (Arches) including Moala Ali Kaman at Koh-e-Moala Ali constructed in the honour of Hazrat Ali; that these Kamans were constructed more than 300 years ago during the period of Emperor Quli Qutub Shah and are being worshipped by Shias. In paragraph 4 of his affidavit, the petitioner has averred that President of Anjuman-e-Shah-e-Khurasan, Mr. Ather Hussain Razvi had written letter dated 30-5-2006 to the Director, Archaeology Department, Andhra Pradesh for stopping illegal demolition of the Arch known as "Moala Ali Kaman", who sent communications dated 30-5-2006 and 16-6-2006 to the Commissioner, Malkajgiri Municipality, Commissioner of Police, Hyderabad City, Secretary to Government, R & B Department and Collector, Ranga Reddy District for taking steps to protect Moala Ali Kaman at Kh-e-Moala Ali, Malkajgiri, but the latter have failed to take steps to safeguard the Arch. In paragraph 7, the petitioner has averred that Ex-Councillor of Malkajgiri Municipality, Mr. Ayub and his accomplices are eager to demolish the Arch because that would save their mulgis from being demolished for widening the road and for this purpose he lodged First Information Report dated 28-6-2006 with Malkajgiri Police Station alleging therein that lorry bearing No.AP 12U 759 had damaged the Arch. Thereupon, Crime No.281/2006 was registered under Sections 279 and 427 IPC, but

no effective step has been taken to protect the monument.

We have heard Shri E.V. Bhagirath Rao, learned counsel for the petitioner and perused the record. The petitioner's grievance, as made in the affidavit filed with the writ petition, is that despite representations made by Director, Archaeology and Museums Department, Hyderabad, Commissioner, Malkajgiri Municipality, Malkajgiri, Commissioner of Police, Hyderabad and Secretary to Government, R & B Department, the respondents have not taken effective steps to maintain the monument. His further grievance is that even though First Information Report was registered on 28.06.2006 in the matter of damage caused to monument by a lorry, police have not taken effective steps to investigate the crime.

In our opinion, the grievance made by the petitioner cannot be but termed as ill-founded and prayer made in the writ petition cannot be entertained because it has not been shown that after 28.06.2006 the concerned police authorities have not taken steps to investigate the crime registered on 28.06.2006. The petitioner is not shown to have made any representation to the higher police authorities with the complaint that the investigating officer is deliberately delaying finalization of investigation of the crime registered at Malkajgiri Police Station. Therefore, it is not possible to issue an order by presuming that the public authorities have failed to take action in accordance with law.

With the above observations, the writ petition is dismissed leaving the petitioner free to approach the higher police authorities with the request that investigation of the crime registered on 28.06.2006 be completed expeditiously. The petitioner is also given liberty to approach the government for taking steps

necessary for protection of the monument known as “Moala Ali Kaman”.

As a sequel to dismissal of the writ petition, W.P.M.P.No.20045 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

23.08.2006
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